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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,191	04/09/2004	Rodney Malcolm Druitt	50179-115	8212

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MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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09/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/821,191	DRUITT ET AL.	
	Examiner	Art Unit	
	Robin A. Hylton	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,12-15,18,19,21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,12-15,18,19,21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The indicated allowability of claims 11 and 20 is withdrawn in view of the newly discovered reference(s) to Antier et al. and Culley. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

2. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "respective flanges" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-8,12,14,15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antier et al. (US 7,051,888) in view of Tansey (US 5,782,369) and Culley (US 6,926,162).

Antier discloses a closure comprising a top portion, a skirt, a support ring, a hinge between the skirt and the support ring, a first sealing portion extending from the top portion. Antier is silent regarding a second sealing portion and an undercut on the support ring.

Tansey teaches it is known to provide a closure with a first sealing and a second sealing portion wherein the length of the second portion is such that, during attachment of the closure with the end portion of the container, the end portion of the container contacts the second portion and pushes it upwardly and at least towards the first sealing portion of the closure to form a seal between the end portion of the container and the closure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of the length of the second sealing portion being such that, during attachment of the closure with the end portion of the container, the end portion of the container contacts the second portion and pushes it upwardly and at least towards the first sealing portion of the closure to form a seal between the end portion of the container and the closure. Doing so provides a more effective seal between the closure and the container end portion.

Culley teaches it is known to provide an undercut on the support ring to limit the downward movement of the closure when applied to a container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of an undercut to the support ring of Antier and to form the undercut so as to define an upper extremity of a region of the body portion that is thinner than the body portion immediately above and below that region.

With regard to claim 2, there is a single hinge 1015 seen in figure 10.

With regard to the spacing of the plurality of frangible bridges, it would have been obvious to one of ordinary skill in the art at the time the invention was made to space the frangible bridges evenly or unevenly circumferentially about the support ring as a matter of design choice which would lead to predictable results.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Sondal (US 4,860,907).

Antier as modified teaches the claimed closure except for an annular bead on the inside surface of the skirt for engaging an annular bead on an associated container.

Sondal teaches it is known to provide a closure with an annular bead on the inside surface of the skirt for engaging an annular bead on an associated container.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply to the closure of Antier the teaching of an annular bead on the inside surface of the skirt for engaging an annular bead on an associated container.

6. Claims 18, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antier et al. (US 7,051,888) in view of Culley (US 6,926,162).

Antier discloses a closure comprising a top portion, a skirt, a support ring, a (single) hinge (1015) between the skirt and the support ring, a first sealing portion extending from the top portion. Antier is silent regarding an undercut on the support ring.

Culley teaches it is known to provide an undercut on the support ring to limit the downward movement of the closure when applied to a container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of an undercut to the support ring of Antier and to form the undercut so as to define an upper extremity of a region of the body portion that is thinner than the body portion immediately above and below that region.

Regarding the container of claim 23, the container end does not include retaining flange and the retaining flange set forth in claim 18 was not positively claimed as part of the closure structure.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. In view of the new grounds of rejection, this Office action is made non-final.

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9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

11. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

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Signature_____

Date_____

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
September 24, 2007

/Robin A. Hylton/
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GAU 3781